

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

LEONARD MCKENZIE
also known as
Muhsin Muhammad

Plaintiff,

-v.-

**Civil Action No.
9:01-cv-1496 (GLS/GJD)**

SGT. MARTENS

Defendants.

APPEARANCES:

LEONARD MCKENZIE
also known as
Muhsin Muhammad
Plaintiff Pro Se
00-A-2980
Five Points Correctional Facility
State Route 96, P.O. Box 119
Romulus, New York 14541

ELIOT SPITZER, ESQ.
NEW YORK STATE ATTORNEY GENERAL

**615 Erie Boulevard West
Suite 102
Syracuse, New York 13204-2455**

SENTA B. SIUDA, ESQ.
**Assistant Attorney
General**

GARY L. SHARPE,
U.S. DISTRICT JUDGE

ORDER

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Gustave J. DiBianco duly filed August 25, 2005. Following ten days from the service thereof, the Clerk has sent the

file, including any and all objections filed by the parties herein.

After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is hereby

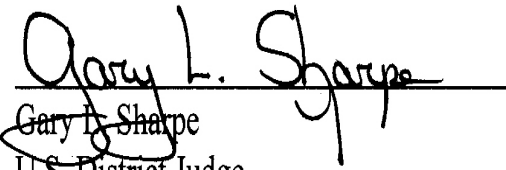
ORDERED, that the Report-Recommendation of Magistrate Judge Gustave J. DiBianco filed August 25, 2005 is **ACCEPTED** in its entirety for the reasons stated, and it is further

ORDERED, that defendant Marten's motion for summary judgment (Docket No. 70) is **GRANTED**, and the amended complaint is **DISMISSED IN ITS ENTIRETY**; and it is further

ORDERED, that the Clerk of the Court is to enter judgment in favor of Defendants and close this case.

IT IS SO ORDERED

Dated: September 23, 2005
Albany, New York



Gary L. Sharpe
U.S. District Judge